

A REGULAR MEETING WAS HELD BY THE NEW KENT COUNTY BOARD OF SUPERVISORS ON THE 12TH DAY OF APRIL IN THE YEAR TWO THOUSAND TWENTY-ONE IN THE HISTORIC COURTHOUSE BOARDROOM IN NEW KENT, VIRGINIA, AT 6:00 P.M.

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IN RE: CALL TO ORDER

Chairman Thomas W. Evelyn called the meeting to order.

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IN RE: ROLL CALL

Thomas W. Evelyn	Present
C. Thomas Tiller, Jr.	Present
Patricia A. Paige	Present
Ron Stiers	Present
John N. Lockwood	Present

All members were present.

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IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Paige gave the invocation and led the Pledge of Allegiance. Mr. Evelyn welcomed those in attendance as well as those joining virtually.

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IN RE: CONSENT AGENDA

The Consent Agenda was presented as follows:

1. Minutes
  - a. February 24, 2021 Work Session Minutes
  - b. March 8, 2021 Regular Session Minutes
2. Miscellaneous
  - a. Approval of New Development Street Name – Shirley Commons Court
  - b. Approval of New Development Street Names for Farms of New Kent, Land Bay 5, Section 4, Renaissance at Four Seasons
3. Refund
  - a. REFUND – Shurm Homes - \$346.50
4. FY21 Supplemental Appropriations
  - a. Animal Shelter Donations, \$156.
  - b. Gifts & Donations to Fire/EMS, Cash (\$100), John and Janet Trivellin (\$50), United Way of South Hampton Roads (\$103.82) and Nan and Scott Cleveland (\$300), \$553.82
  - c. Funds Received from VRSA Insurance, Sheriff - Claim # 02-20-34766-1-AP DOL 11/21/2020 (\$225); Claim # 02-20-35578-1-AP DOL 1/10/2021 (\$161.86), Claim # 02-19-32020-1-AP DOL 6/13/2020 (\$471.48) and General Services - Claim # 02-20-35144-1-PR DOL 12/17/2020 (\$660), \$1,518.34.
  - d. Veterinarian Expense Restitution Received, \$274.30.
  - e. Sheriff Extra Duty - Colonial Downs 1/22/2021 - 1/30/2021, \$1,415.17.
  - f. Funds Received for VCU Transportation, \$89,589.50.

- g. Pine Fork Park Development, Quilt Raffle (\$347), Kara LaRoche (\$1,000) and New Kent JR Women's Club (\$650), \$1,997.
- h. Parks and Recreation Co-Sponsorship Funds - Williamsburg Indoor Sports Complex, \$400.

\$95,904.13 - Total  
(\$4,317.63) - Total In/Out - General Fund (1101)  
(\$91,586.50) - Total In/Out - Capital (1302)

- 5. Treasurer's Report: Cash as of February 28, 2021, \$70,195,382.54 including escrow funds.

Ms. Paige moved to approve the Consent Agenda as presented and that it be made a part of the record. The members were polled:

C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE: CITIZENS COMMENT PERIOD

There were no citizen comments.

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IN RE: VIRGINIA DEPARTMENT OF TRANSPORTATION – RESIDENCY ADMINISTRATOR'S REPORT

VDOT Assistant Residency Administrator Marc Harlow reviewed the monthly report for March 2021 and noted the following work had been done:

- pothole and asphalt repairs on twenty routes
- machining on eight unpaved routes
- shoulder repairs on seven routes
- erosion repairs on six routes
- pipes replaced on two routes
- pipes cleaned or repaired on six routes
- ditching work on nine routes
- tree removal, pruning and cleanup on twenty-seven routes
- sign repair or replacement on three routes
- trash and litter pickup on twelve routes

123 work requests had been received with 84 completed. Eight emergency callouts were reported and involved pothole repairs, high water, debris or dead animals in the roadway and sign repair/replacement. Mr. Harlow also reported both lanes of a low area on Route 249 would be paved soon. A failed pipe in this area had been replaced and there had been some settlement since the work had been completed. He entertained questions.

Board members provided the following comments and reported the following concerns:

Mr. Stiers reported the New Kent Transportation Safety Commission (TSC) would be meeting on Wednesday and asked if VDOT would be present. Mr. Harlow reported VDOT would attend. Mr. Stiers indicated he would reserve comments until that meeting. He noted he had requested that Rockahock Road be repaved several years ago. Half of the work had been done before the money had run out. The project was to be completed the following year but funding had been diverted to snow removal. He stated it was his understanding this project would also not be done this year. Mr. Harlow reported this had been resubmitted for next year's schedule and would be paved as soon as funding became available. Mr. Stiers stated the road was very narrow and it would mean a lot to the RV drivers if an extra foot could be added to each lane. He expressed his appreciation for VDOT being represented at this meeting.

Mr. Tiller reported a tree had fallen on Pinehurst Road in Five Lakes earlier in the year. VDOT had removed the tree, stacked the debris on the shoulder and had not yet hauled it away. He also reported an ongoing issue with a pipe backing up at the corner of South Woodland Circle and Longview Drive. VDOT had cleaned the pipe the previous year but it appeared to be clogged again. Mr. Harlow reported VDOT had recently been working in this area and he was not sure if it was this same location but he would have someone look into this. Mr. Tiller suggested the work mentioned by Mr. Harlow had been at the corner of Brook Boulevard and Club Drive. He also reported surveyors had been working along Henpeck Road several months ago and had made markings on the road. These markings had since washed away and no work had ever been done. He asked why they had been surveying. Mr. Harlow indicated he didn't know and would have to find out.

Mr. Lockwood reported Ms. Paige and he had met with Area Superintendent Joe Tarry to discuss a number of areas within their districts and there had been progress in some of those areas. He noted Mr. Tarry had his list and he had confidence he would continue to work on addressing those concerns. He indicated he had nothing new to report.

Ms. Paige welcomed Mr. Harlow/VDOT back to the Board meetings. She noted she had also provided a list but did have one additional item to discuss. She reported it had been established some time ago that Olivet Church Road met the criteria for striping. Crews had started the striping but had never returned to complete the project. She noted the County's main refuse site was located on this road and was drawing much traffic. She asked for a commitment regarding when this project would be finished. Mr. Harlow indicated he would look into why this had not been completed.

Mr. Evelyn thanked VDOT for recent pipe work on Talleyville Road and asked when crews would pave this area. Mr. Harlow stated with the improving weather, projects such as this should soon resume. Mr. Evelyn asked if VDOT had been able to work any of the County dirt roads. Mr. Harlow reported some had been graded prior to the most recent storm but he did not know if any work had been done since then. Mr. Evelyn reported a mattress and sofa had been dropped on Route 106. Mr. Harlow reported VDOT would remove them if they were within the VDOT right of way. Mr. Evelyn expressed his appreciation for Mr. Harlow's report and his presence at the meeting and indicated he was looking forward to seeing him at future meetings. Mr. Harlow thanked the Board for the opportunity to report.

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IN RE: PLANRVA CHARTER AMENDMENT – RESOLUTION R-08-21

Before the Board for consideration was Resolution R-08-21 to ratify amendments to the PlanRVA/Richmond Regional Planning District Commission charter agreement. County Administrator Rodney Hathaway reported he had come to the Board in January with a

resolution (R-04-21) to amend the PlanRVA charter. The charter amendments required adoption by all nine member localities. New Kent had approved the amendments but the City of Richmond had approved everything except for the restructuring of votes giving additional votes to localities with populations above 250,000. Because approval by all nine jurisdictions was required, it was necessary to bring the amendments back so that the changes made by the City of Richmond could be affirmed. He entertained questions.

Mr. Stiers asked if this meant New Kent would still have one vote. Mr. Hathaway reported New Kent currently had two votes and the amendments would not change that. The voting structure changes would only impact the number of votes for Henrico and Chesterfield.

Ms. Paige reported she felt the number of votes was not as significant as the voices at the table. She added that New Kent had the opportunity to join with other localities with only one or two votes to make a difference. It was important for all voices to be heard and she reported one of the larger localities had said if they could not have additional votes, they would pull out funding. If this happened, the budget would have been short making it necessary to come back to the other jurisdictions to make up the difference. She again stressed the importance of New Kent having a voice at the table.

Ms. Paige moved to adopt Resolution R-08-21 to ratify amendments to the PlanRVA/ Richmond Regional Planning District Commission charter agreement. The members were polled:

Patricia A. Paige	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
C. Thomas Tiller, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE:           FY22 BUDGET DISCUSSION

County Administrator Rodney Hathaway stated he was happy to present proposed revisions to the FY22 Budget recommendations originally presented in March. He distributed a "Proposed New Revenues and Allocations" handout and reported additional real estate tax and personal property tax revenue had been identified (\$559,381 for real estate and \$290,619 for personal property). The handout also noted several areas of savings including \$212,396 in COLA (Cost Of Living Adjustments) for the Sheriff's Office and Fire-Rescue. The Sheriff's Office and Fire-Rescue had both requested additional funding for staff at the Board's last meeting. Recommendations for base salary increases were included in the proposed revisions and, as a result, these staff members would not be eligible for a COLA. Other revenue increases included Compensation Board funding of \$87,625, \$42,729 resulting from reducing the Fire ALS (Advanced Life Support) line item, \$26,055 in operating costs for three deputy positions and \$195,096 for three deputy positions and benefits. He reminded the Board the Sheriff's Office had indicated they would rather use this funding for salary increases than for new positions. Total additional revenue was \$1,413,901. The removal of the additional positions would also free up \$195,000 allocated in the Capital account for vehicles supporting those positions.

Recommended additional expenditures totaling \$1,136,249 included \$761,049 for public safety (Sheriff's Office and Fire-Rescue) base salary increases of \$5,500 each including non-

sworn administration staff. The \$761,049 also included budget increases for taxes, FICA etc. New Kent County Schools had originally presented a budget request for \$450,000 in additional operating funds. He was proposing an additional allocation of \$100,000 which would increase the total additional new funding to \$250,000. Other recommendations included \$100,000 for a salary study (competitive compensation and the establishment of a pay plan for staff progression), \$36,571 to increase the recommended employee COLA from 3.5% to 4% (not including public safety), \$58,580 for a new Economic Development Administrative Assistant position, \$4,566 for a Victim Witness Supplement, \$63,403 for a new Building Inspector position to address increased volume, \$200 for safety equipment and uniforms in support of sign removal, \$6,021 for a \$5,000 base market salary adjustment for the Economic Development Director and \$5,859 for a Senior Planner promotion (\$4,850 base). The Economic Development Director increase and Planning promotion had been included in the FY21 budget recommendations but had been removed due to COVID. The remaining \$277,652 would be added to Reserved for Contingency.

Mr. Hathaway reported he had spoken with Sheriff Joe McLaughlin who had reached out to several Board members requesting they consider adding the three new positions back into the proposed FY22 budget. The \$195,096 and \$26,055 previously mentioned as savings would need to go back into the budget if the Board wished to include these positions. He also reported the School Board would like the Board to consider fully funding their request for \$450,000. He pointed out the remaining \$277,652 in new revenue would allow the Board to fund one of these two requests but not both. He also stated for the record that the \$850,000 listed as additional revenue generated by real estate and personal property taxes was not the figure provided by the Commissioner of the Revenue. This was a conservative projection and staff had felt the figure provided had been high.

He drew attention to one-time expenditures for Quinton Elementary School. The County had been setting aside \$2,045,000 annually for the operation of this school currently under construction and scheduled to open in the fall of 2022. The School Board wished to begin filling some positions in the next fiscal year and had previously requested \$552,507 for this. They had since requested an additional SPED (Special Education) teacher position at a cost of \$72,632. This would leave a balance of \$1,419,861 for one-time Capital expenditures.

Ms. Paige asked if the School Board was requesting one-time funding to fill positions. Mr. Hathaway indicated they were not and noted the funding for these positions would be an ongoing expense. The \$2,045,000 was being carried forward annually and because it would not all be needed in FY21, the balance could be used for Capital projects. Mr. Evelyn noted this was the money they had set aside for the new school operating and because the project had been delayed a year, the remaining funding could be used for Capital projects. Mr. Hathaway noted the positions the School Board was seeking to fill included a Planning Principal and a counselor as well as some other positions. Ms. Paige asked if the School Board had submitted a list of positions. Mr. Hathaway reported a list had been provided but he did not have the information with him. Drawing attention to the information on COLA savings, Ms. Paige questioned the \$105,392 for Fire-Rescue. Mr. Hathaway reported Fire-Rescue staff would be receiving a \$5,500 base increase and would not receive the COLA.

Mr. Lockwood asked if any additional information was known about how much COVID funding the School Board would be receiving, how it could be used and what the spending timeline would be. He pointed out the School Board had requested an additional \$450,000 and the recommendation now was to fund \$250,000 and asked if COVID money could be used to cover any of this request. He also noted the School Board had a remaining balance of previously received COVID funding. Mr. Hathaway reported the School Board was

anticipating receiving \$1.8 million in one-time funding. The School Board had been urged to look for one-time expenditures which could be covered with this funding and by doing so free up some of the County's existing Capital funding. He noted they may be using some funding to replace HVAC units as part of an ongoing project at New Kent Middle School.

Mr. Evelyn noted a great deal of time had been spent on this budget and there was still time to consider final allocations. Mr. Hathaway reminded the Board that plans were to advertise the budget public hearing for May 10<sup>th</sup> and the notice would need to be ready for publication by April 23<sup>rd</sup>. If the Board was comfortable with what had been presented, staff would move forward with advertising. He reminded the Board that advertising the budget would not lock them into what was published and they would still be able to make changes. He also noted the recommendation to increase meals tax had been discussed and the plan was to advertise this as well. He again noted the Board would not be locked into a meals tax increase; they would still have the option to reduce the increase or choose no increase. Mr. Tiller asked if the additional funding anticipated from a 2% meals tax increase had been included in the \$1,413,901 in additional revenue presented earlier. Mr. Hathaway stated it had not and noted the recommendation was for revenue generated by the proposed 2% meals tax increase to be set aside for Capital projects. Mr. Evelyn stated he was not crazy about increasing taxes but noted meals tax revenue had been the highest during June, July and August when tourists were traveling. He stated if personal property and real estate tax rates could be kept down, he would consider increasing the meals tax.

Mr. Stiers noted the Sheriff's Office had reported on the limited number of deputies on duty at certain times of the day. He stated he felt the Board should approve the requested three additional deputy positions.

Ms. Paige asked if a motion was need to move forward with advertising the public hearings. Mr. Hathaway indicated only a general consensus was needed.

Mr. Evelyn noted it was too early to begin public hearings. The Board moved on with Elected Officials Reports.

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IN RE:           ELECTED OFFICIALS REPORTS

Mr. Stiers expressed his appreciation to County Attorney Brendan Hefty and Zoning Administrator Kenneth Vaughn for their assistance with an auto repair shop which had turned into a junk yard in his district. This situation had gone to court and the owner had been told to clean up the property. He added there were other businesses in his district that needed to clean up and this was just a start at trying to beautify Providence Forge.

Mr. Tiller indicated he had nothing to report.

Mr. Lockwood expressed appreciation to the contractor recently hired to address litter along roadways. He had received many positive comments, felt it was money well spent and was making a huge impact. Mr. Evelyn agreed and urged citizens to do what they could to keep trash in containers inside their vehicles when transporting to a refuse site.

Ms. Paige extended condolences to the family of James Moody, her neighbor and the owner of Moody Logging for over forty years. He had employed numerous County residents over the years and worked diligently to help young entrepreneurs get started. She extended heartfelt sympathy to his family. She also encouraged residents, especially those living in District 3, who may be interested in serving on a County board, commission or committee



to go to the County website under the "Government" tab to learn more about local boards. She reported on the New Kent County COVID Vaccine Clinics and noted the Johnson & Johnson vaccine would be available at the upcoming Friday clinic at New Kent High School. The County had reached out to area churches to get the message about the clinics out to members. She also reported there was very positive news about I-64 and noted she had a liaison who had written a book about the importance of widening I-64 from the Peninsula to I-295. This liaison had also recently sent a letter to the Virginia Secretary of Transportation and she would be reaching out to the County Administrator, Fire Chief and Sheriff for similar letters from New Kent to petition the reversal of the SMART Scale decision to drop this project down on the priority list. She noted she would continue to fight for I-64 widening.

Mr. Evelyn reported he did not have anything new to report but did want to follow up on Ms. Paige's comments regarding James Moody. He stated Mr. Moody had been a big influence on him when he had started logging. He also noted Mr. Moody had served on a number of boards in the County and was very well respected in the community. He closed by stating he would be missed and he knew he was now in a better place.

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IN RE:           STAFF REPORTS

NEW/UPDATED DOCUMENTS FROM HUMAN RESOURCES - County Administrator Rodney Hathaway noted binders containing documents from Human Resources which would be presented at the April work session had been placed at each Board member's seat. The documents were lengthy and the copies were provided in advance to allow sufficient time for review prior to the meeting. The documents included a proposed New Kent County Safety Manual, updates to the New Kent County Personnel and Policies Manual, a CDL Supplement Policy and a Group Medical Plan Look-Back Policy associated with the Affordable Care Act. A summary of proposed changes to the Employee Handbook had been provided. He noted these were very important documents and reported the County's Public Utilities Department had received a surprise inspection from VOSH (Virginia Occupational Safety & Health) in February. One of the first things they had requested was our safety manual. New Kent had been fortunate that VOSH had understood the manual was in draft form and would be adopted soon. The inspection had resulted in a report of "no findings" which he stated was very rare. Mr. Hathaway also reported receiving a call from another locality who had been the subject of a surprise inspection who had not had a safety manual and was scrambling to pull something together now. He noted New Kent was ahead of the game and thanked the Human Resources Department, Directors and committee members who had been involved in developing the Safety Manual. He again noted these documents would be presented to the Board at the April work session for action.

STRATEGIC PLAN UPDATE - County Administrator Rodney Hathaway reported the Strategic Plan was ready for presentation to the public. A video overview would be available on the Envision New Kent Facebook page starting Wednesday, April 14<sup>th</sup>. Displays would also be available at the New Kent Visitors and Commerce Center where residents would be able to review them as well as leave comments during normal business hours. The displays would include goals and objectives which residents would be encouraged to rank. The information would be on display through Wednesday, April 28<sup>th</sup>. He also reported there would be marketing, advertising and mass emails going out to let everyone know about this opportunity to provide input. A survey would also be available on the Envision New Kent Facebook and he noted they had already received much citizen input.

BROADBAND UPDATE - Mr. Stiers asked for an update on Broadband. County Administrator Rodney Hathaway reported River Street Networks would be presenting at the April 28<sup>th</sup> work

session and he encouraged citizens to tune into Youtube to hear the presentation. They would be providing an update on the development of the broadband plan. He noted this would not be a final plan but reported good progress had been made.

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IN RE: OTHER BUSINESS

There was no other business.

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IN RE: APPOINTMENTS – DELEGATED BY DISTRICT

Mr. Tiller moved to nominate Mike Salmon for appointment as District Two representative to the Board of Zoning Appeals to serve a five-year term beginning January 1, 2021 and ending December 31, 2025. The members were polled:

Ron Stiers	Aye
John N. Lockwood	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE: APPOINTMENTS – NOT DELEGATED BY DISTRICT

There were no appointments not delegated by district.

Mr. Evelyn noted it was still too early to begin public hearings. He called for a recess at 6:52 p.m. The meeting reconvened at 7:01 p.m.

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IN RE: PUBLIC HEARING – ZM-01-21, JAMES AND TIMOTHY WOOTEN REZONING APPLICATION – ORDINANCE O-06-21

Before the Board for consideration was Ordinance O-06-21 to rezone approximately 78.68 acres of land from C-1 (Conservation) to A-1 (Agriculture). Planning Director Kelli Le Duc would provide an overview of the case and Mr. James Wooten was also present and wished to speak. Ms. Le Duc reported James and Timothy Wooten had submitted application ZM-01-21 requesting the rezoning of approximately 78.68 acres of land located north of 18140 Polish Town Road from C-1 to A-1. The rezoning to A-1 was necessary to accommodate the division of the parcel between the brothers and for both parcels to remain in the Mill Creek AFD. The parcel had been used for timber production as was most of the land in the immediate area. She noted the C-1 zoning classification prohibited subdivisions of any kind. The Comprehensive Plan's Future Land Use Map designated the subject property as "Rural Lands" which was the most extensive designation on the Land Use Map and all adjacent lands were zoned A-1. All reviewing agencies had no comments and there would be minimal impact to County services. The Planning Commission had considered the application at their March 15, 2021 meeting and had voted to forward a recommendation of approval to the Board. She turned the floor over to Mr. Wooten.

Mr. Wooten expressed appreciation for the opportunity to speak. He stated that he hoped Board members had received copies of a chain of emails dating back to January 13, 2021 as well as Ordinance O-19-05 adopted on June 13, 2005 and a portion of the minutes from that meeting. He believed the emails and documents would speak better to the issues he



would like the Board to consider. Reading from an email, he stated "It doesn't seem feasible that an ordinance would put such a financial burden on siblings who jointly inherited a piece of property and want to divide the property out of joint ownership and still maintain the AFD status." He added that every problem about this division seemed to be rooted in the C-1 zoning classification. He noted the minutes of the June 13, 2005 meeting provided details on how the C-1 zoning had come about. He suggested the zoning had been a mistake, noted the land had not been sold through a realtor and stated his father had acquired the land through a swap with another property owner. His family had owned the property for twenty-six years before anything regarding the zoning had come up and during that time the property had been divided twice with two separate building permits being issued. When his brother had sought refinancing, the finance company had indicated he could not have a house on the property as it was zoned and this had brought about the 2005 zoning request. He stated that in hindsight his family should have pushed to get the remainder of the property rezoned in 2005. His mother had since passed away and had left the property to the two brothers. They had thought all they would have to do would be to have a surveyor divide the property but it had not worked that way. They had spent approximately \$5,800 on this application and he asked the Board to pass a resolution to waive these fees. He urged the Board to do whatever they could to allow them to change the zoning from C-1 to A-1 so they could divide the property and to be able to do so without the financial burden. He reported four generations of his family had lived in New Kent and noted they were not trying to circumvent any ordinance but just wanted the property to be divided so it could be put into their names. He entertained questions.

Mr. Evelyn stated that the Board would be considering the application to rezone the property from C-1 to A-1. Mr. Wooten referenced comments in the June 13, 2005 minutes which were attributed to then Community Development Director George Homewood and stated, that based on those comments, he didn't know if C-1 even existed. His family had never received any benefit from the C-1 zoning and referenced comments from then Commissioner of the Revenue John Crump which were also found in the June 13, 2005 minutes. The minutes reported Mr. Crump had stated there was no difference in taxation between A-1 and C-1 zoning. Mr. Evelyn asked if the property had been taxed as Conservation. County Administrator Rodney Hathaway stated that it should have been taxed as Conservation. Ms. Le Duc stated she believed the tax rates between A-1 and C-1 were relatively close. Mr. Evelyn stated most property owners who put property into Conservation zoning did so for tax reasons. Mr. Wooten read from the June 13, 2005 minutes stating, "Commissioner of the Revenue John Crump stated Chesapeake had their land in C-1 which was not recognized by his office. That's why Chesapeake came back to the Board of Equalization and wanted to change it and that's when they started selling off their property. Mr. Crump stated that there was no difference in the value between land zoned C-1 and A-1. The tax rate for C-1 zoned land is the same as A-1." Mr. Lockwood noted the C-1 zoning put more restrictions on how the land could be used. Mr. Evelyn agreed and noted construction of a home was not allowed on C-1 property. Mr. Wooten referenced information in a letter he had sent to Mr. Hathaway and noted there had been four instances where the property had been divided twice and two building permits issued although it was zoned C-1. He added that the difference between A-1 and C-1 was only on paper and their land use had not changed.

Mr. Evelyn thanked Mr. Wooten for his comments and opened the public hearing. There being not individuals wishing to speak, the public hearing was closed.

Mr. Evelyn asked if Board members had any additional comments. Mr. Lockwood stated that after reading the emails, it appeared a number of mistakes had been made many of

which he felt had been due to oversight. He felt it would be good to move forward and accommodate this change from C-1 to A-1. He further stated that because building permits had been issued, he felt that everyone had assumed the property was zoned A-1. Mr. Evelyn noted agreement. Mr. Stiers also noted agreement and referenced words in the June 13, 2005 minutes in which Mr. Homewood stated "the Board could choose by resolution to sponsor an application to rezone that piece of C-1 property. He further stated that he suspects that this was not a result of an error in zoning but an error in perception over the years." Mr. Stiers noted he agreed and believed it had been an oversight. He further stated he didn't think the family should have to pay for it. Mr. Evelyn stated he didn't have any issues with rezoning but was concerned that waiving the fees would set a precedent and noted the County had incurred some costs such as advertising. Mr. Lockwood also pointed out the family had known since the 2005 refinancing that the property was in fact zoned C-1. Mr. Wooten stated his family had thought based on the comments in 2005, this would be addressed in the rezoning Mr. Homewood had mentioned. He stated his family did bear some responsibility for not aggressively pursuing this years ago and noted they would be glad to pay whatever costs the County had incurred in this process. Referencing the per acre charge for a rezoning application, he stated, "\$40 an acre is more like a fine."

Ms. Paige moved to approve Ordinance O-06-21 approving application XM-01-21 as presented. The members were polled:

John N. Lockwood	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Ron Stiers	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE: PUBLIC HEARING – ZM-02-21 AND CUP-02-21, DAVID ADAMS and TANNER & SHANNON RUST REZONING AND CONDITIONAL USE PERMIT APPLICATION – ORDINANCE O-07-21 AND RESOLUTION R-07-21

Before the Board for consideration was Ordinance O-07-21 to rezone approximately 37.23 acres of land from EO (Economic Opportunity) to A-1 (Agriculture) and Resolution R-07-21 to approve Conditional Use Permit Application CUP-02-21, David Adams and Tanner and Shannon Rust, to allow applicants to construct an equestrian facility on Tax Map and Parcel 22-8 (GPIN #J14-2005-3339). Planning Director Kelli Le Duc would provide an overview of the case and Mr. Adams as well as Mr. and Mrs. Rust were also present and wished to speak. Ms. Le Duc reported Mr. Adams and Mr. and Mrs. Rust had submitted application ZM-02-21 requesting the rezoning of approximately 37.23 acres of land located north of 7210 Olivet Church Road from EO to A-1 and a CUP application in order to construct an equestrian facility on the property. The subject property was surrounded by other A-1 properties and the Farms of New Kent Planned Unit Development. The intention of the applicants was to first construct a residence with the barns and equestrian facilities coming at a later time. Their use plans included conversion to pasture land, horse boarding and a riding arena. The Comprehensive Plan's Future Land Use Map designated the subject property as "Rural Lands" which was the most extensive designation on the Land Use Map and represented the majority of lands in the County. The applications had been reviewed by all reviewing agencies and comments would be addressed in the site plan process. Ms. Le Duc stated that given that this property was not in a prime location and was accessed by a substandard road with an inadequate right of way, it would be very difficult to market as

economic development. The property had been sitting vacant and the addition of a house and equestrian facility would benefit New Kent County with the addition of real estate tax and the eventual use would generate sales tax revenue. Five suggested conditions were listed in the resolution. Those conditions included:

1. Applicant shall work with VDOT and other reviewing agencies to meet all State and Local requirements during the site plan process.
2. Parking shall be provided (and shown on the site plan) for customers.
3. Any lighting that is installed shall be oriented away from neighboring properties and shall provide adequate illumination for pedestrian/customer safety.
4. The size of any business sign for the equestrian/boarding facility shall meet the size and height requirements found in the Zoning Ordinance.
5. This Conditional Use Permit shall expire on the fifth anniversary of its approval if a certificate of occupancy for the equestrian facility has not been issued.

Staff recommended approval of both applications. The Planning Commission had considered the applications at their March 15, 2021 meeting and had forwarded recommendations of approval for both to the Board. She asked that the Board vote first on the rezoning ordinance and then on the CUP resolution. She turned the floor over to Mr. Adams.

Mr. Adams thanked the Board for the opportunity to speak. He reported he had purchased the property in 2011 and the EO zoning had not been a concern at the time. He had been managing the timber on the property and it had been used for recreation by a hunt club. He had actively tried to sell the parcel as EO but suggested its location and access were not conducive to the types of uses noted in the County's EO guidelines. He had found a couple interested in doing something on the property that better suited the Comprehensive Plan and the general surrounding community. A horse farm was currently located to the south of the property and he suggested an equestrian facility would be in line with New Kent's vision of keeping the County rural and green. He entertained questions.

Ms. Paige stated he was asking to rezone the property from EO to A-1 because it was not suitable for a business and she then asked, "but you want to open a business?" Mr. Adams indicated she was correct and noted a horse riding arena was permitted in EO but a single family dwelling was not. Mr. and Mrs. Rust wished to first build a home which could not be done until the property was rezoned to A-1. Once rezoned to A-1, they could ask for a CUP to allow the construction of the equestrian center which was not authorized in A-1.

Mr. Evelyn reported this property had been a part of the Farms of New Kent and had been auctioned as EO. He agreed it would be hard to market as EO. He opened the public hearing. There being no individuals wishing to speak, the public hearing was closed.

Mr. Stiers moved to adopt Ordinance O-07-21 approving application ZM-02-21. The members were polled:

C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
Thomas W. Evelyn	Aye

The motion carried.

Mr. Evelyn asked Mr. and Mrs. Rust if they had any comments. Ms. Rust indicated she didn't have any comments and offered to answer questions. Several Board members indicated the request had been well laid out and they had no questions. Mr. Tiller asked for clarification as to where the five conditions for the CUP were noted. It was noted the conditions were listed at the bottom of the second page of Resolution R-07-21.

Mr. Stiers moved to adopt Resolution R-07-21 approving application CUP-02-21. The members were polled:

Patricia A. Paige	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
C. Thomas Tiller, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE: OTHER BUSINESS – BLIGHT ORDINANCE

Mr. Stiers reported on a recent effort to clean up junk yards in his district. He noted there were also numerous residential properties scattered across the County that had also become junk yards and asked if the County had looked into the possibility of a blight ordinance. County Administrator Rodney Hathaway reported this topic was currently being discussed at the staff level and a draft ordinance had been prepared. If the Board wished to consider this, the information could be presented at a future meeting. Mr. Stiers reported the resident of a property located within an A-1 (Agriculture) zoned neighborhood within his district had turned the front yard into a junk yard. Refrigerators as well as other items were in the yard and he was concerned this was dangerous for children playing in the area. He had asked the Fire Marshal to look into this and had learned the jurisdiction of the Fire Marshal only included business properties. He had personally drafted and hand delivered a letter to the property owner asking them to clean up the property. Mr. Evelyn reported the Board had looked at this issue years ago and noted they had to be careful about how they addressed others' property. Mr. Stiers noted he understood and supported personal property rights but added when your personal property rights were presenting a fire hazard to a home only fifteen feet away, those rights were then infringing on the rights of others. Mr. Hathaway stated this item would be on the April work session agenda.

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IN RE: ANNOUNCEMENT OF UPCOMING MEETINGS/ADJOURNMENT

Mr. Evelyn announced the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, May 10, 2021 and the next work session would be held at 9:00 a.m. on Wednesday, April 28, 2021, both in the Historic Courthouse Boardroom (School Board Office), 12003 New Kent Highway, New Kent, VA. Mr. Evelyn asked when the Board would be able to resume meetings in the County Administration Building. County Administrator Rodney Hathaway reported the first phase of the HVAC project should be completed by May 4<sup>th</sup>. If the project remained on schedule, the May 10<sup>th</sup> meeting could possibly be held in the County Administration Building but the reservation for the Historic Courthouse Boardroom had not been canceled in case the project fell behind schedule.

Mr. Evelyn adjourned the meeting at 7:29 p.m.